

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated October 6, 2006 (hereinafter Office Action) have been considered. Claims 1-47 remain pending in the application, and new Claims 48 and 49 were added such that Claims 1-49 are now pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

The Applicants first draw the Examiner's attention to page 2 of the PTO-1449 form submitted by the Applicants on June 19, 2003 (filed with the patent application). The last publication entitled "Radio Frequency Identification – A basic primer, Version 1.11, 1999-09-28" was not initialed by the Examiner. Records indicate that this document was provided with the Information Disclosure Statement, and the absence of the Examiner's initials may be entirely unintentional. If, however, a copy of this document was not received by the Examiner, the Applicants kindly request notification of this, and we will provide a copy for the Examiner and official USPTO file so that this item can be properly initialed. Otherwise, the Applicants respectfully request that this item be initialed on the PTO-1449 form.

Claim 28 stands rejected under 35 U.S.C. §112, ¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. The Examiner notes that Claim 28 lacks antecedent basis for "the at least one destination network element." The Applicants respectfully disagree, and assume that this was merely an unintentional oversight by the Examiner. Claim 20, from which Claim 28 is directly dependent, includes a final recitation of "communicating with *at least one destination network element* over the network using a mobile service facilitated by the activated local application." The Applicants respectfully request that the 35 U.S.C. §112, ¶2 rejection to Claim 28 be withdrawn.

The Applicants note the conditional allowance of Claims 2, 13-19, 24, 27, 29 and 34. These claims have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. The Applicants have rewritten Claim 13 in independent form, and Claims 14-19 remain dependent on Claim 13. Thus, it is

not intended that the scope of Claims 13-19 be changed with the redrafting of Claim 13 in independent form. The objection to Claims 13-19 has now been overcome, and these claims are now in condition for allowance.

The Applicants have also added three new claims, each including the “over-the-air connection to the network” limitations largely corresponding to those of allowed Claim 13. For example, new Claims 48 and 50 are respectively directed to an apparatus and computer-readable medium that receives RF information to ultimately invoke an application(s), establishes an over-the-air connection to a network, and performs the function(s) corresponding to the visual representation that involves the over-the-air connection to the network. Claim 49 is directed to a system that includes a similar apparatus in the form of a mobile device, and also includes the transponders that provide the information. Claim 49 also includes limitations relating to receiving RF information to ultimately invoke an application(s), establishing an over-the-air connection to a network, and performing the function(s) corresponding to the visual representation that involves the over-the-air connection to the network. These new claims are also allowable over the cited prior art of record.

Claims 1, 3-12, 20-23, 25, 26, 28, 30-33 and 35-47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2004/0203352 to *Hall* in view of U.S. Patent No. 5,649,296 to *MacLellan et al.* The Applicants respectfully submit that a *prima facie* case of obviousness has not been set forth in the Office Action. To establish a *prima facie* case of obviousness based on a combination of references, three basic criteria must be met as is set forth in M.P.E.P., §2143:

- 1) There must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) There must be a reasonable expectation of success; and
- 3) The prior art references must teach or suggest all of the claim limitations.

Thus, to establish *prima facie* obviousness, the Examiner must at least show that the cited references “teach or suggest all of the claim limitations.” The Applicants respectfully contend that this burden has not been met.

The claims subject to the rejection under 35 U.S.C. §103(a) include numerous limitations that are not identified in the Office Action as being in either of the *Hall* or *MacLellan* references cited in the rejection. Additionally, all independent Claims 1, 20, 30, 35, 44 and 45 were collectively rejected based on the same rationale. Particularly, the Examiner cites *Hall* as teaching a device for wirelessly transferring information, an RFID, an antenna, that *Hall*’s transponder inherently is running on at least one application, and that an information element that can be transferred is a picture ID or similar identifier. The Office Action then indicates that *Hall* is silent as to sending an identifier via a backscatter signal, but that *MacLellan* teaches an RFID system that uses backscatter technology.

The above rationale, applied to all independent claims as well as dependent Claims 3-12, 21-23, 25, 26, 28, 31-33, 36-43, 46 and 47, does not establish that the limitations in the claims are taught or suggested by the combination of cited references. More particularly, the method of Claim 1 includes the following recitations:

- providing one or more transponders having information associated therewith, at a location substantially accessible to a mobile device user;
- associating a visual representation with each of the one or more transponders, wherein each visual representation corresponds to at least one function to be performed;
- activating at least one of the transponders via a wireless signal transmitted by the mobile device in response to the mobile device being positioned proximate the visual representation associated with the transponder;
- receiving the information from the activated transponder at the mobile device;
- invoking a mobile device application, identified at least in part by the information received by the mobile device; and
- performing the function corresponding to the visual representation in response to invoking the mobile device application.

However, as indicated above, the Office Action rationale relates to a device for wirelessly transferring information; an RFID; an antenna; transponder allegedly inherently running on an application, information element that can be transferred is a picture ID or similar identifier, and a backscatter signal. This rationale does not address various limitations of Claim 1. For example, it does not address associating a visual representation with each of the transponders where each visual representation corresponds to a function(s) to be performed. It is not relevant even assuming *arguendo* that *Hall* disclosed transferring a picture ID or other identifier through a wireless connection, as it does not relate to associating a visual representation with each of the transponders where each visual representation corresponds to a function(s) to be performed. Similarly, the Office Action rationale does not indicate where in *Hall* or *MacLellan* invokes an application on the mobile device based on the information received. The Office Action statement that *Hall*'s "RFID transponder is running on at least one application" is unclear, but in any event does not describe invoking an application on the mobile device based on information the mobile device received. The Office Action also provides no information as to whether *Hall* and/or *MacLellan* teach or suggest performing the function corresponding to the visual representation in response to invoking the mobile device application. At least these recitations of Claim 1 are not addressed in the Office Action. Because it has not been shown how *Hall* and *MacLellan* teach or suggest all of the claim limitations of Claim 1, *prima facie* obviousness clearly has not been established.

The Applicants further respectfully submit that the combination of *Hall* and *MacLellan* in fact does not teach or suggest what is set forth in Claim 1. For example, neither *Hall* nor *MacLellan* teach or suggest, either alone or in combination, associating a visual representation with each of the one or more transponders, where each visual representation corresponds to at least one function to be performed. The combination also fails to teach that the information is used to invoke a corresponding mobile device application that then performs the function corresponding to that visual representation. Thus, the combination of *Hall* and *MacLellan* fails to render Claim 1 obvious, and withdrawal of the rejection is respectfully solicited.

As set forth in M.P.E.P § 2143, there are three requirements required to establish *prima facie* obviousness. A *prima facie* case of obviousness is not established if any

one or more of these requirements are not met. Because the *Hall/MacLellan* combination does not teach or suggest all the limitations of Claim 1, it is respectfully submitted that *prima facie* obviousness is not established for Claim 1. However, the Applicants do not acquiesce with the stated motivations to combine the *Hall* and *MacLellan* references. While the Applicant does not acquiesce that the proper motivation to combine the cited references has been established and/or the reasonable expectation of success has been established, it is respectfully submitted that *prima facie* obviousness is not established at least because all claim limitations are not taught or suggested by the cited combinations. The Applicant reserves the right to further address other requirements for establishing *prima facie* of obviousness for these and/or other cited combinations of references if the circumstances warrant such a response to a contention of *prima facie* obviousness.

For at least the aforementioned reasons, the Applicants respectfully submit that Claim 1 is in condition for allowance over the cited combination of references.

Claims 3-12, 20-23, 25, 26, 28, 30-33 and 35-47 also stand rejected based on the *Hall/MacLellan* combination, based on the same rationale as that described above in connection with Claim 1. However, Claims 3-12, 20-23, 25, 26, 28, 30-33 and 35-47 are of varying scopes relative to Claim 1, and the same rationale cannot be applied to each of these claims of varying scope. The Applicants respectfully submit that the rejection of these claims does not fully and clearly indicate which portions of *Hall* and/or *MacLellan* allegedly teach or suggest the claim recitations. The grounds of rejection are to be fully and clearly stated – *i.e.* multiple claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group. M.P.E.P. § 707.07(d). Thus, due to the various limitations in these claims that are not addressed in the Office Action, the Applicants respectfully submit that *prima facie* obviousness has not been established. Further, the Applicants respectfully submit that the combination of *Hall* and *MacLellan* does not teach or suggest the limitations set forth in Claims 3-12, 20-23, 25, 26, 28, 30-33 and 35-47.

Thus, *prima facie* obviousness has not been established, and the Applicants also submit that the combination at least fails to teach or suggest all the limitations of these claims. As a result, the Applicants submit that Claims 3-12, 20-23, 25, 26, 28, 30-33 and 35-

47 are not rendered obvious by the cited combination of references, and reconsideration and allowance of these claims are respectfully solicited.

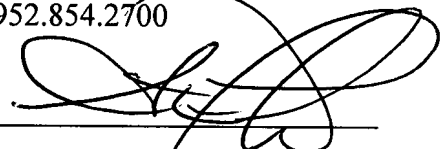
Authorization is given to charge Deposit Account No. 50-3581 (NOKV.013CIP) any necessary fees to properly effect this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: April 6, 2007

By: _____


Steven R. Funk
Reg. No. 37,830